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THE primary order of arrangement in the present work is chronological; but where there is a series of Acts upon the same subject, that arrangement has been departed from, in order to admit of such Acts being grouped under one head, as, for example, in the case of the "Statutes of Mortmain," "Judgments," &c. &c. Those sections which have been omitted from the Acts in the present Work will be found, as a rule, to be unimportant; though occasionally they have been omitted as involving matters of detail, for which the Student or Practitioner would always resort to the Act of Parliament itself.

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January 27th, 1873.

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EPITOME OF STATUTES

RELATING TO

CONVEYANCING.

DE DONIS CONDITIONALIBUS.

13 EDW. I. c. 1.

A.D. 1285.

1. *Preamble.*—Prior to this statute, if lands were given to a man and the heirs of his body, he was able, the moment he had issue born, to alienate the lands, and thus defeat the intention of the donor.

2. Therefore, henceforth the will of the giver, according to the form in the deed of gift manifestly expressed, shall be observed, so that they to whom the land is given as aforesaid shall have no power to alien it, but it shall go to their own issue after their death, or revert to the giver, or his heirs if issue fail.

QUIA EMPTORES.

18 EDW. I. c. 1 AND 2.

A.D. 1290.

Cap. 1.

To put a stop to the practice of subinfeudation, it is enacted that from henceforth it shall be lawful to every

freeman to sell at his own pleasure his lands and tenements, or part of them, so that the feoffee shall hold the same of the chief lord of the same fee, by such service and customs as his feoffor held before.

CAP. 2.

If he sell part of such lands or tenements to any, the feoffee shall immediately hold it of the chief lord, and shall be charged with so much service as pertaineth to the said chief lord for such part.

STATUTE OF USES.

27 HEN. VIII. c. 10.

A.D. 1535.

1. Where any person or persons shall be seised of any lands, rents, or other hereditaments, to the *use, confidence, or trust* of any *other* person or persons, or of any body politic, such person or persons and bodies politic that shall have any such use, confidence, or trust in fee-simple, fee-tail, for life or years, shall be seised and deemed in lawful seisin and possession of the same lands, rents, and hereditaments for the same estates as they have in the use, trust, or confidence.

2. Where several persons are jointly seised of lands to the *use, confidence, or trust* of any of them so jointly seised, the persons having such use, &c., shall have only such estate at law in the lands as they had before in the use.

4 and 5. Where any persons stand seised of any lands or hereditaments, in fee-simple or otherwise, *to the use and intent* that some other person shall have yearly to him and his heirs, or to him and his assigns, an annual rent for life or years, or some other special time, such last-named person shall be deemed in possession and seisin of the same rent for such estate as he had in the use, and may distrain for such rent.

6 and 9. A married woman shall not be entitled to dower *and* jointure out of her husband's lands; but if the jointure be given to her *after* marriage (otherwise than by Act of Parliament), she may elect to take such jointure *or* her dower.

FRAUDULENT CONVEYANCES.

AS TO CREDITORS.

13 ELIZ. c. 5.

A.D. 1570.

2. Every alienation and conveyance of lands, hereditaments, goods, or chattels, and every bond, suit, judgment, and execution, made with intent to delay or defraud creditors, shall be utterly void as against such creditors.

6. But the Act is not to affect assurances made *bonâ fide*, and for good (that is, *valuable*) consideration, to a person without notice of the fraud.

AS TO PURCHASERS.

27 ELIZ. c. 4.

A.D. 1585.

2. Every conveyance, lease, and incumbrance of lands or hereditaments made with intent to deceive a purchaser shall, as against such purchaser and those claiming under him, be utterly void.

4 and 6. But the Act does not extend to conveyances or mortgages made *bonâ fide* and for good (that is, *valuable*) consideration.

5. If any person make a conveyance, &c., of land revocable at will, and afterwards sell such land for money or other good consideration, such former conveyance, if not revoked, shall be void as against such purchaser and all persons claiming under him.

FEUDAL TENURES ABOLITION ACT.

12 CAR. II. c. 24.

A.D. 1660.

1, 2, 3, and 4. Tenures by knight's service and tenures *in capite* are abolished, together with the burdensome incidents of those tenures; and all tenures held of the king or others are turned into free and common socage.

7. Tenures in frankalmoign, copyholds, and the honorary services of grand serjeanty, excepted.

8. A father (whether of full age or not), by deed executed in his lifetime, or by his will in writing in the presence of two or more witnesses, may appoint a guardian to his children who are under age and not married at his death.

STATUTES OF DISTRIBUTION.

22 & 23 CAR. II. c. 10.

A.D. 1670.

5. The surplus of an intestate's effects is to be distributed as follows:—One-third to the wife, and the residue equally between the children of the intestate and such persons as legally represent such children, if dead, except such child (not being an heir-at-law) who shall have any estate by the settlement of the intestate, or shall have been advanced a portion equal to his distributive share of the intestate's effects. But if such estate by settlement or portion be not equal to such child's distributive share, he shall receive so much of the surplus of intestate's effects as shall make the estate of all the children equal.

6. If there be no children, nor representatives of them, one moiety of the estate is to go to the wife, and the other equally between the next of kin.

7. No representation shall be admitted among collaterals after brothers' and sisters' children.

8. No distribution shall be made till after one year from intestate's death.

1 JAMES II. c. 17.

A.D. 1685.

7. If after the death of a father any of his children die intestate without wife or children, in lifetime of mother, every brother and sister, and their representatives, shall have an equal share with her.

THE STATUTE OF FRAUDS.

29 CAR. II. c. 3.

A.D. 1676.

1. All leases and interests of freehold in lands or hereditaments, not put in writing and signed by the parties making them, or their agents lawfully authorised *by writing*, shall have force of estates at will only.

2. Except leases not exceeding three years, at a rent of two-thirds at least of full improved value.

3. No leases, or interests of freehold in lands (except copyholds) shall be assigned, granted, or surrendered, except by *deed or note in writing*, signed by the party or his agent lawfully authorised in writing, or by operation of law.

4. No action shall be brought whereby to charge—(1.) any executor or administrator upon any special promise to answer damages out of his own estate; (2.) or the defendant upon any special promise to answer for the debt, default, or miscarriage of another; (3.) or any person upon any agreement made in consideration of marriage; (4.) or upon any contract, or sale of lands, tenements, or hereditaments, or

any interest therein; (5.) or upon any agreement that is not to be performed within a year from the making thereof, unless the agreement, or some memorandum thereof, be in writing, and signed by the party to be charged therewith, or some other person thereunto by him lawfully authorised.

5. Devises of land are to be in writing, and attested by three or four credible witnesses.

7. Declarations of trusts of land are to be in writing, signed by the party declaring same.

8. Except trusts of lands arising by construction of law.

9. Assignments of trusts are to be in writing, signed by the party assigning.

10. Lands of *cestui que trust* are to be liable to judgments against him.

16. Writ of execution not to bind goods of debtor till such writ is delivered to the Sheriff.

17. No contract for the sale of goods, wares, and merchandise, for £10 or upwards, shall be good, except the buyer—(1.) accept part of the goods sold, and actually receive the same; (2.) or give something in earnest to bind the bargain, or in part payment; (3.) or some memorandum in writing of the bargain be made and signed by the parties to be charged, or their agents lawfully authorised.

23. Any soldier in actual military service, or any mariner or seaman being at sea, may dispose of his wages and personalty as before the Act.

25. Husbands may demand administration of personal estate of their intestate wives.

THE STATUTES OF MORTMAIN.

9 GEO. II. c. 36.

A.D. 1736.

1. No lands or hereditaments, nor money, stock in the public funds, or other personal estate to be laid out in

lands, shall be given or settled for any charitable uses, unless (except as to stock) by deed indented, sealed, and delivered, in the presence of two or more credible witnesses, twelve calendar months at least before the death of the grantor (including the days of execution and death), and enrolled in the Court of Chancery within six calendar months next after the execution thereof; and unless such stock be transferred six calendar months at least before the death of the grantor (including the days of transfer and death); and unless the same be to take effect in possession for the charitable use intended immediately from the making thereof, and be without any power of revocation or reservation whatsoever for the benefit of the grantor, or of any person claiming under him.

2. But the provisions as to sealing and delivering of any deed twelve calendar months before the death of the grantor, or to the transfer of stock six calendar months before the death of the transferror, are not to extend to purchases or transfers made *bonâ fide*, and for full and valuable consideration actually paid at or before the making of such conveyance or transfer, and without fraud or collusion.

4. Act not to prejudice gifts to the two universities, or for the better support of scholars on the foundation of Eton, Winchester, and Westminster.

6. Act not to extend to Scotland.

24 VICT. c. 9.

17*th May* 1861.

1. No future assurance for charitable uses shall be void by reason of its not being indented, nor by reason of its containing any reservation of a nominal rent, or of minerals or easements, or covenants as to buildings, streets, or nuisances, or similar provisions for the enjoyment as well of the hereditaments comprised in such assurance as of adjacent hereditaments, or any right of entry on non-payment of rent or breach of covenant, or similar stipulations for the donor's benefit; nor (in the case of copyholds) by reason of

the same not being by deed; nor, in case such assurance is *bonâ fide* on a sale for valuable consideration, by reason of such consideration consisting wholly or in part of a rent-charge or other annual payment—provided that the grantor reserve the same benefit for his representatives as for himself.

2. Where the charitable uses of any future conveyance of hereditaments for charitable purposes are declared by a separate deed, such conveyance need not be enrolled; but it shall be void unless such separate deed shall be enrolled in Chancery within six months after the execution of such conveyance.

25 VICT. c. 17.

16*th May* 1862.

2. The Act 24 & 25 Vict. c. 9, is to extend to copyholds as well as freeholds.

5. Money *bonâ fide* expended before this Act in improving, for any charitable use, land, of which possession is now held for such charitable use, to be deemed, for the purposes of the said Act, equivalent to money paid as consideration for the purchase of such land.

27 VICT. c. 13.

13*th May* 1864.

3. Where original deed creating a charitable trust cannot be enrolled, because lost, an order may be obtained from Court of Chancery, on summons, authorising any subsequent deed, which discloses the charitable trusts, to be enrolled instead.

4. Every full and *bonâ fide* valuable consideration, consisting wholly or partly of a rent or other annual payment, shall, for the purposes of 9 Geo. II. c. 36, be as valid as if such consideration had been a sum of money actually paid at or before the making of such conveyance without fraud or collusion.

29 & 30 VICT. c. 57.

30*th July* 1866.

1 and 2. The Court of Chancery may authorise the enrolment of any conveyance for charitable uses, if it be satisfied that such conveyance was made *bonâ fide* for full valuable consideration actually paid at or before the making thereof, or reserved by way of rent-charge or annual payment, without fraud or collusion, and that at time of application to Court possession is held under such conveyance, and that the omission to enrol it arose from inadvertence, or the destruction thereof by time or accident; such enrolment to be made within six calendar months from the date of the order, and no acknowledgment shall be necessary prior to enrolment.

31 & 32 VICT. c. 44.

13*th July* 1868.

RELIGIOUS, ETC., BUILDING SITES.

1. All assurances hereafter made (except by will) of land not exceeding two acres, (if *bonâ fide* for full and valuable consideration actually paid at or before making of such assurance, or reserved by way of rent or annual payment,) to trustees for any society for religious, educational, literary, scientific, or like purpose, for erection of a building for any such purpose, or whereon such a building is erected, are to be exempt from 9 Geo. II. c. 36, and sect. 2 of 24 & 25 Vict. c. 9.

2. But trustees may enrol deed if they think fit.

3. No longer necessary to acknowledge any deed in order to enrol it.

33 & 34 VICT. c. 34.

1*st August* 1870.

INVESTMENT OF CHARITABLE FUNDS.

1. Trustees holding money in trust for any public or charitable purpose may invest it on any real security

consistent with the existing trust, notwithstanding Mortmain Acts.

2. But in any suit to redeem or enforce such security, a sale, in lieu of foreclosure, shall be directed.

34 VICT. c. 13.

25th May 1871.

PUBLIC PARKS, SCHOOLS, AND MUSEUMS.

3. The term "Elementary School" not to include a school at which ordinary payments for instruction for each scholar exceed ninepence a week.

4. Gifts and assurances of land, by deed or will, for purposes of public park, schoolhouse, elementary school, or public museum, and bequests of personalty to be laid out in land for such purposes, are to be exempt from Mortmain Acts.

5. Such will—and deed, if not for valuable consideration—is to be made twelve calendar months before death of giver, and enrolled with Charity Commissioners within six calendar months after coming into operation.

6. Gifts by will are limited to twenty acres for one park, two acres for one museum, and one acre for one schoolhouse.

[See further on this subject, Appendix, *post* p. 67.]

THE THELLUSSON ACT.

39 & 40 GEO. III. c. 98.

28th July 1800.

1. Income of real or personal property is not to be accumulated longer than the life of the grantor or settlor; *or* twenty-one years from the death of any such grantor, settlor, devisor, or testator; *or* during the minority of any person in being, or in *ventre sa mère*, at the death of such

grantor, devisor, or testator; *or* during the minority only of any person who, under the assurance directing such accumulations, would, for the time being, if of full age, be entitled unto the income so directed to be accumulated. The income directed to be accumulated contrary to this Act to go to the person who would have been entitled thereto if such accumulation had not been directed.

2. Provision for payment of debts, or for raising portions for children, or touching the produce of timber, excepted.

BONDS OF RESIGNATION.

9 GEO. IV. c. 94.

28*th July* 1828.

1 and 2. Engagements made *bonâ fide* for resignation of an ecclesiastical benefice in favour of one person named therein, or one of two of following relations, by blood or marriage, viz., uncle, son, grandson, brother, nephew, or grandnephew of patron, to be valid.

4. But one part of instrument making engagement is to be deposited, within two calendar months of its date, with registrar of diocese.

5. The resignation must refer to engagement, and state name of person for whose benefit made; and the resignation is void unless the person be presented within six calendar months after notice of resignation to patron.

6. Act only extends to cases where patron holds living as private property.

UNDISPOSED OF RESIDUE.

11 GEO. IV. & 1 WM. IV. c. 40.

16*th July* 1830.

1. When person dies after 1st September 1830, his executors shall be trustees of his undisposed of residue for

persons who would be entitled to it under Statutes of Distribution, unless it appears from will that executors were to take beneficially.

2. Not to affect executors' rights where there are no next of kin.

3. Not to extend to Scotland.

ILLUSORY APPOINTMENTS.

11 GEO. IV. & 1 WM. IV. c. 46.

16*th July* 1830.

1. No appointment hereafter made in exercise of a power to appoint property amongst several, to be invalid on the ground that a nominal share only shall be appointed to, or left unappointed to devolve upon, any one or more of the objects of such power.

PAYMENT OF DEBTS OUT OF REAL ESTATE.

11 GEO. IV. & 1 WM. IV. c. 47.

16*th July* 1830.

CONSOLIDATION AND AMENDMENT ACT.

2. All wills, already or hereafter to be made of lands or hereditaments, shall be void against any persons, their heirs, executors, administrators, and assigns, with whom the person making such will has entered into any bond, covenant, or other specialty binding his heirs.

3. And such creditors may sue the heir-at-law, and devisee, or devisee of such devisee, upon such specialties.

4. If there is no heir-at-law, such action may be maintained against the devisee solely.

5. But the Act is not to affect limitations or devises of lands for the payment of debts, or portions for children in pursuance of marriage-contract, or agreement in writing, *bonâ fide* made before marriage.

6. Where an heir-at-law, liable to pay debts of his ancestor in respect of lands descended, shall alien such lands before action brought, he is answerable for such debts to the value of the land so aliened; but the lands, if *bonâ fide* aliened, are not liable.

8. And devisees are liable to the same extent as heirs, although the lands are aliened before action brought.

9. The real estate of deceased traders is made assets to be administered in equity for the payment of *all* their debts, but specialty creditors in which the heirs are bound are to be paid in full before any simple contract creditors, or creditors in which the heirs are not bound, are paid.

*11. An infant heir or devisee, by order of the Court of Chancery, may convey real estate devised to be sold for the payment of debts, in the same manner as if he were of age.

*12. Where land liable to the payment of debts is by devise vested in any person for life, or other limited interest, or is limited by way of executory devise, and a decree is made for sale thereof for payment of debts, the Court may direct such tenant for life, or other person having a limited interest, or the first executory devisee thereof, to convey the fee-simple.

3 & 4 WM. IV. c. 104.

29th August 1833.

REAL ESTATE TO BE ASSETS FOR PAYMENT OF ALL DEBTS.

1. Where hereafter a person dies seised of any interest in real estate, freehold or copyhold, not by his will charged with, or devised subject to, payment of debts, the same to

* These two sections have been slightly amended by 2 & 3 Vict. c. 60, and 11 & 12 Vict. c. 87.

be assets *to be administered in equity* for payment of his simple contract and specialty debts. But specialties in which the heirs are bound shall be paid in full before creditors by simple contract or specialty in which the heirs are not bound are paid anything.

[See further on this subject, sects. 14–18 of 22 & 23 Vict. c. 35, *post* p. 45.]

PRESCRIPTION.

2 & 3 WM. IV. c. 71.

1*st August* 1832.

1. Claims to rights of common and other profits *à prendre* (except tithes, rent, and services) are not to be defeated after thirty years' uninterrupted enjoyment by showing that such right was first enjoyed at any time prior to such period of thirty years; but such claim may be defeated in any other way by which it is now liable to be defeated; and when such right has been enjoyed as aforesaid for sixty years, it shall be indefeasible, unless had by consent or agreement.

2. A similar provision as to rights of way or water, or other easement, except that the periods are twenty and forty years respectively.

3. Right to light is to be indefeasible after enjoyment without interruption for twenty years, unless it has been enjoyed by consent in writing.

4. The said periods are to be deemed those next before suit or action commenced questioning the right. No act to be deemed an "interruption," unless acquiesced in for one year after notice.

7. In the case of an infant, idiot, person *non compos mentis*, *feme covert* or tenant for life, or during action pending, time shall not run till disability ceases, except where the right is hereby declared indefeasible.

8. But where any land or water, over which an easement has been enjoyed, is held for a term of life or exceeding three years, the time of enjoyment of such easement during

continuance of such term shall be excluded in computation of said period of forty years, in case the claim be, within three years next after the end of such term, resisted by person entitled to reversion.

9. Act not to extend to Scotland or Ireland.

FINES AND RECOVERIES ACT.

3 & 4 WM. IV. c. 74.

28*th August* 1833.

1. A "base fee" is "that estate in fee-simple into which "an estate-tail is converted where the issue in tail are "barred, but persons claiming estates by way of remainder "or otherwise are not barred."

2. No fine or recovery, not already commenced, is to be levied or suffered after 31st December 1833.

3. Persons liable after the 31st December 1833 to levy fines or suffer recoveries, in pursuance of covenants, are to effect the purposes intended by a disposition under this Act.

14. Estates-tail, and estates expectant thereon, are no longer barrable by warranty,

15. After 31st December 1833, every actual tenant-in-tail, whether in possession, remainder, contingency, or otherwise, to have full power to dispose of the lands entailed for an estate in fee-simple, or any less estate, as against all persons (including the king) claiming under the entail, or in remainder or reversion expectant on the determination thereof; saving the rights of persons in respect of estates prior to the estate-tail.

18. The power of disposition aforesaid not to extend to tenants-in-tail restrained by Act of Parliament from barring their estates-tail, nor to tenants-in-tail after possibility of issue extinct.

19. After 31st December 1833, where an estate-tail has been converted into a base fee, the person who, if such

estate-tail had not been barred, would have been actual tenant-in-tail of the lands, shall have full power to dispose of them against all persons whose estates are to take effect after the determination or in defeasance of the base fee, so as to enlarge the base fee into a fee-simple absolute.

20. Issue inheritable to any estate-tail cannot dispose of their expectant interests.

21. If a tenant-in-tail dispose of his estate by way of mortgage or for any other limited purpose, such disposition shall, to the extent of the estate thereby created, be an absolute bar, in equity as well as at law, to all persons against whom such disposition is by this Act authorised to be made.

THE PROTECTOR.

22. The owner of the first estate for years determinable on a life or lives, or any greater estate (not being an estate for years), prior to the estate-tail and subsisting under the same settlement, is the protector of the settlement, whether such prior estate be incumbered or disposed of or not; and an estate by the curtesy, in respect of the estate-tail, or of any prior estate created by same settlement, shall be deemed a prior estate under the same settlement.

23. Each of two or more owners of a prior estate under same settlement to be sole protector as to his share.

24. Where a married woman would, if single, be protector, she and her husband together shall be protector; but if the prior estate is settled to her separate use, she alone shall be protector.

27. No tenant-in-dower or bare trustee (except under s. 31) to be protector.

31. If settlement made before this Act, and a bare trustee have the first immediate estate of freehold, he is protector.

32. Settlor may by the settlement creating the entail appoint any number of persons *in esse*, not exceeding three, and not being aliens, to be protector. Every deed appointing a protector under a power in a settlement or by which he relinquishes his office, must be enrolled in Chancery within six calendar months after execution.

33. If protector be lunatic, the Lord Chancellor (or other persons intrusted with lunatics), is protector; if protector be convicted of treason or felony, or be an infant, but having no prior estate, Court of Chancery is protector.

34. Protector's consent required to enable tenant-in-tail to create a larger estate than a base fee.

35. The like consent is requisite for enlargement of a base fee.

36. Protector is subject to no control in the exercise of his power of consenting; his agreement to withhold consent is void.

VOIDABLE ESTATES.

38. If a tenant-in-tail create a voidable estate in favour of a purchaser, and afterwards dispose of the lands (except by lease), such subsequent disposition, if made with consent of protector (if any), shall confirm such voidable estate; but not if such subsequent disposition be in favour of a purchaser without notice.

ENLARGEMENT OF BASE FEES.

39. A base fee, when united with the immediate reversion, is not to merge, but to become enlarged into as great an estate as the tenant-in-tail, with consent of protector (if any), might have created, if reversion had been vested in any other person.

MODE OF BARRING ENTAIL.

40. Every disposition by tenant-in-tail must be by deed, and not by will, or contract. If tenant-in-tail be a married woman, her husband must concur, and she must acknowledge the deed.

41. Every assurance by tenant-in-tail (except a lease not exceeding twenty-one years, to commence within twelve calendar months from date, at not less than five-sixths of a rack-rent) to be inoperative, unless enrolled in Chancery within six calendar months after execution.

42. Protector's consent to be given by the disentailing deed, or by a distinct deed to be executed at same time, or before.

44. Protector's consent irrevocable.

45. A married woman may always consent as a *feme sole.*

46. If protector's consent is by distinct deed, such deed must be enrolled at same time as, or before, the disentailing deed.

47. Courts of equity are excluded from giving any effect to dispositions by tenants-in-tail, or consents of protectors of settlements, which in courts of law would not be effectual.

AS TO COPYHOLDS.

50. The previous clauses to apply to copyholds, except that a legal estate-tail is to be barred by surrender, and an equitable estate-tail by surrender or deed, and except as hereafter provided.

51. If protector's consent is given by deed, it must be executed at same time as, or before, the surrender, and produced to steward, who must endorse such production on the deed, and enter the deed and endorsement on the court rolls.

52. If such consent be not given by deed, it shall be given to the person taking the surrender, and such consent shall be mentioned in the memorandum of surrender.

53. Deed barring equitable estate-tail to be entered on rolls of the manor; and if protector consents by distinct deed, it must be executed at same time as, or before, the disentailing deed, and be entered on the rolls, and be endorsed with memorandum of such entry. Every disentailing deed of copyholds by an equitable tenant-in-tail, is void against a purchaser who claims under a subsequent assurance entered on rolls prior to such disentailing deed.

54. Disentailing assurances of copyholds require no enrolment except on the court rolls.

55–69. [These sections relate to the estates-tail of bankrupts, and do not fall within the scope of the present work.]

ENTAILED MONEY, ETC.

71. Lands to be sold, where the purchase money is subject to be invested in purchase of lands to be entailed,

and money subject to be invested in purchase of lands to be entailed, to be treated as the lands to be purchased. But any assurance under this clause of leaseholds, or money so circumstanced as aforesaid, shall be by an assignment by deed, enrolled in Chancery within six calendar months after execution.

73. Disentailing deeds not to require acknowledgment before enrolment in Chancery.

74. As between purchasers, the deed first enrolled has priority.

AS TO ALIENATION BY MARRIED WOMEN.

77. After 31st December 1833, every married woman (except a tenant-in-tail) may by deed dispose of lands of any tenure, and money to be invested in lands, also extinguish powers vested in her, the same as if she were a *feme sole*—but the deed must be concurred in by her husband, and acknowledged by her. Act not to extend to copyholds where the object to be effected by this clause was heretofore effected by her, in concurrence with her husband, by surrender to the lord of the manor.

79. Deeds executed by a married woman under this Act (except as protector) to be acknowledged by her before a judge of a superior court at Westminster, or two perpetual commissioners, or two special commissioners.

80. Such persons, before taking acknowledgment, are to examine her apart from her husband, touching her knowledge of such deed, and to ascertain whether she freely consents thereto.

82. Commissioners' power not confined to particular place.

83. If from absence beyond seas, or other sufficient cause, a married woman is prevented from acknowledgment in the usual way, Court of Common Pleas may appoint special commissioners.

84. Commissioners to sign a memorandum of acknowledgment, in the prescribed form, in margin of deed, also a certificate on a separate parchment.

85. Such certificate, with affidavit verifying it, to be filed in the Common Pleas.

86. On filing certificate, the deed to take effect, by relation, from time of acknowledgment.

90. A married woman is to be separately examined on the surrender of an equitable estate in copyholds, in the same manner as if such estate were legal.

91. If husband be lunatic, or from any cause whatever unable to execute a deed or surrender, Court of Common Pleas may, on application of wife, dispense with his concurrence, except where the Lord Chancellor or Court of Chancery be protector in lieu of the husband.

92. Act not to extend to Ireland except where expressly mentioned.

DOWER.

3 & 4 WM. IV. c. 105.

29*th August* 1833.

2 and 3. Widows to be entitled to dower out of equitable estates, or estates partly legal and partly equitable; also out of land in respect of which husband had right of entry or action merely, provided dower would have attached if he had recovered possession of such land.

4 and 5. But not out of estates absolutely disposed of by him in his lifetime or by will; and all partial estates created by any disposition, or will, of husband, shall be valid against widow's dower.

6 and 7. Dower may be barred by declaration either in deed, conveying land to husband, or in any deed executed by him, or in his will.

9. If husband devise land to his widow, out of which she is dowable, she shall not be entitled to dower, unless a contrary intention appear by the will.

10. A bequest to widow of personalty, or land not subject to dower, is not to bar dower, unless contrary intention appear by will.

11. An agreement by husband not to bar dower is to be enforceable.

14. Act not to extend to dower of a woman married on

or before 1st January 1834, nor to deeds or wills executed before that day.

INHERITANCE.

3 & 4 WM. IV. c. 106.

29th August 1833.

[This Act is so fully treated of in Mr Joshua Williams' treatise on "The Law of Real Property," that I have thought it unnecessary to include it here.]

WILLS.

7 WM. IV. & 1 VICT. c. 26.

3d July 1837.

COMMONLY CALLED "THE WILLS ACT."

3. All property may now be disposed of by will, including copyholds, though not surrendered to use of will, and though the testator were never admitted; also estates *pur autre vie*, whether there be any special occupant or not, and contingent and executory interests and rights of entry, and property acquired after execution of will.

4. But Act not to affect lord of manor's right to fines.

5. So much of a will as relates to copyholds must be entered on rolls of manor; and when property is subject to trusts, it shall be so stated on rolls, but not necessary to enter such trusts. When copyholds are devised not heretofore devisable, lord to be entitled to same fines as due from heir in case of descent.

6. A freehold estate *pur autre vie* not disposed of by will, to be chargeable in hands of heir, if special occupant, as assets; if no special occupant, then to go to executor or administrator as personal estate.

7 and 8. No will of person under twenty-one to be valid; nor of a married woman, except such as she might have made before Act.

9. Every will to be in writing, and signed *at the foot or end thereof* by the testator, or by some other person in his presence and by his direction; such signature to be made or acknowledged by testator in presence of two or more witnesses, present at same time, and such witnesses to attest and subscribe will in presence of testator; but no form of attestation necessary.

10. Appointments by will are to be executed like other wills, and to be valid although other required solemnities are not observed.

11. A soldier in actual military service, or a mariner or seaman at sea, may dispose of personalty as before Act.

12. * Act not to affect 11 Geo. IV. and 1 Wm. IV. c. 20, as to wills of petty officers and seamen in navy, and non-commissioned officers of marines and marines, as to wages and prize-money.

13. Publication of will no longer requisite.

14. Will shall not be invalid for incompetency of attesting witness.

15. But a beneficial gift to an attesting witness, or husband or wife of one (except charges for payment of debts), is void; but such witness shall be admitted to prove execution of will.

16. A creditor, or husband or wife of one, may attest a will, notwithstanding it contains a charge of debts.

17. An executor is a competent attesting witness.

18. Every will is revoked by marriage, except a will made in exercise of a power of appointment, when the estate appointed would not, in default of appointment, pass to testator's heir, executor, or administrator, or next of kin.

19. No will to be revoked by presumption of intention on the ground of alteration in circumstances.

20. A will may be revoked by another will or codicil, or by writing executed like a will, or by the burning, tearing, or otherwise destroying by testator, or by some person in his presence and by his direction, with intention of revoking same.

21. Alterations in a will after execution (except so far as

* This section has been repealed, and provision as to the wills of seamen is now made by 28 & 29 Vict. c. 72. *post.*

effect of will before such alteration be not apparent) to be executed as a will, or signature of testator and witnesses should be made near such alteration, or to a memorandum referring to it.

22. A will may be revived by re-execution, or by a codicil, and when a will partially revoked is afterwards wholly revoked, and then revived, such revival shall only extend to the part last revoked.

23. Dispositions subsequent to execution of will, not to prevent operation of will on the interest remaining in testator at his death.

24. A will to speak from death of testator as to property, unless contrary intention appear.

25. Residuary devise to include estates comprised in lapsed and void devises, unless a contrary intention appear.

26. A general devise shall include copyholds and leaseholds as well as freeholds, provided such devise would describe copyholds and leaseholds if the testator had no freeholds, unless a contrary intention appear.

27. A general devise or bequest of real or personal estate shall include property over which testator has a general power of appointment, unless a contrary intention appear.

28. A devise without words of limitation shall pass the fee, or other the whole estate which testator had power to dispose of, unless a contrary intention appear.

29. In a devise or bequest, the words "die without issue," or any other words importing an indefinite failure of issue of any person, shall mean a failure of issue in the lifetime or at the death of such person, and not an indefinite failure of issue, unless a contrary intention appear.

30. A devise of real estate (except of a presentation) to a trustee shall pass the whole estate of testator, unless a less estate be given to him expressly or by implication.

31. If real estate be devised to a trustee without words of limitation, and the trust may continue beyond the life of a person beneficially entitled for life, such trustee shall take the whole estate of testator, and not an estate determinable with the trust.

32. If a devisee-in-tail, or quasi-entail, die in testator's lifetime, leaving issue inheritable under entail, and living

at testator's death, the devise not to lapse, but to take effect as if such devisee had died immediately after testator, unless a contrary intention appear.

33. Gifts to children or other issue of testator, who die in his lifetime, leaving issue living at his decease, not to lapse, but to take effect as if their deaths had happened immediately after death of testator, unless a contrary intention appear.

34. Act not to extend to wills made before 1st January 1838, nor to estates *pur autre vie* of persons who die before that day. Wills re-published are to date from re-publication.

35. Act not to extend to Scotland.

AMENDMENT ACT.

15 & 16 VICT. c. 24.

17*th June* 1852.

WILLS, SIGNATURE OF.

1. Every will, so far as regards the position of the signature, to be deemed valid, if the signature be so placed at or after, or following, or under, or beside or opposite to the end of the will, that it shall be apparent that testator intended thereby to give effect to the writing signed as his will; and no such will to be affected by the fact that a blank space intervenes between last word of will and the signature, or that signature is in the testimonium clause, or attestation clause, or that signature is on a side of the paper containing no clause of the will; but no signature shall give effect to any disposition which is underneath it, or inserted after signature made.

WILLS OF PERSONAL ESTATE BY BRITISH SUBJECTS.

24 & 25 VICT. c. 114.

6*th August* 1861.

1. Wills made *out of the United Kingdom* by British subjects (whatever be their domicile) shall, as regards

personalty, be deemed well executed if made according to the law of the place where made, or of the place where the person was domiciled when he made it, or by the laws then in force in that part of her Majesty's dominions where he had his domicile of origin.

2. Wills made *within the United Kingdom* by British subjects (whatever their domicile) shall, as regards personalty, be deemed well executed if made according to the laws in force in that part of the United Kingdom where the same are made.

3. No will shall be invalidated or altered by the testator's subsequent change of domicile.

4. This Act not to invalidate any will as regards personalty which would have been valid if this Act had not been passed.

5. Act to extend only to wills of persons who die after passing of Act.

DOMICILE.

24 & 25 VICT. c. 121.

6th August 1861.

1. Whenever her Majesty shall agree with any foreign state that the following provisions shall apply to the subjects of her Majesty and of such foreign state respectively, her Majesty may, by order in Council, direct, and it is enacted, that after the publication of *such order* in the *London Gazette*—No *British* subject, dying in a foreign country, shall be deemed to have acquired a domicile there, unless he has resided there for one year immediately preceding his death, and has filed there a declaration of his intention to become domiciled there; and, in default, shall, for all purposes of testate or intestate succession as to movables, retain the domicile possessed at the time of going to reside in such foreign country.

2. After the publication of such order in the London Gazette no *foreign* subject dying in Great Britain or Ireland shall be deemed to have acquired a domicile there, unless he has resided therein for one year immediately preceding

his death, and has deposited with the Home Secretary a declaration of his desire to become domiciled in England, Scotland, or Ireland, and that the law of the place of such domicile shall regulate his movable succession.

3. Act not to apply to foreigners who have obtained letters of naturalisation in any part of her Majesty's dominions.

4. After the publication of such order in the London Gazette, when subjects of foreign states shall die in her Majesty's dominions, and there shall be no person to administer to their estates, the consuls, vice-consuls, or consular agents of such foreign states may administer.

WILLS OF SEAMEN AND MARINES.

28 & 29 VICT. c. 72.

29*th June* 1865.

3. A will made, after the commencement of this Act, by any person previously to his entering into service as a seaman or marine, shall not be valid to pass his wages or prize-money.

4. A will made, after the commencement of this Act, by a person while serving as a seaman or marine, shall not be valid for any purpose if contained on same paper with a power of attorney.

5. A will made, after the commencement of this Act, by a seaman or marine, serving or not, shall not be valid to pass any wages or prize-money, unless made in conformity with the following provisions:—

(1.) It shall be in writing, and executed with the formalities required by law of England in the case of persons not being soldiers in actual service, or seamen at sea.

(2.) Where it is made on board one of her Majesty's ships, one of the two requisite attesting witnesses shall be a commissioned officer, chaplain, or subordinate officer, belonging to her Majesty's naval, or marine, or military force.

(3.) Where it is made elsewhere, one of the two requisite attesting witnesses shall be such a commissioned officer or chaplain, or subordinate officer as aforesaid, or the

governor, agent, physician, surgeon, assistant surgeon, or chaplain of a naval hospital at home or abroad, or a justice of the peace, or the incumbent, curate, or minister of a church or place of worship in the parish where the will is executed, or a British consular officer, or an officer of customs, or a notary public.

6. Nevertheless, a will made after the commencement of this Act, by a seaman or marine, while a prisoner-of-war, shall be valid, if made in conformity with the following provisions:—

(1.) If in writing and signed by him, and his signature thereto is attested by one witness, being either a commissioned officer or chaplain belonging to her Majesty's naval or marine or military force, or a subordinate officer of her Majesty's navy, or the agent of a naval hospital, or a notary public.

(2.) If made according to the law of the place where it is made.

(3.) If it is in writing, and executed according to the law of England, in the case of persons not being soldiers in actual service, or seamen at sea.

7. Nevertheless, in case of a will made after commencement of this Act, by any person while serving as a marine or seaman at sea, the Admiralty may pay his wages or prize-money to any persons claiming under such will, though not made in conformity with this Act, if, having regard to the special circumstances of the death of testator, the Admiralty think that compliance with this Act may be properly dispensed with.

8. Act to commence on such day, not later than the 1st January 1866, as her Majesty in Council shall direct; but as to places out of United Kingdom, a later day may be fixed.

JUDGMENTS.

1 & 2 VICT. c. 110.

16*th August* 1838.

11. Under a writ of elegit, Sheriff may deliver in execution all the lands and hereditaments (including copyholds) of which

the debtor, or any person in trust for him, is seized at date of judgment, or at any time afterwards, or over which he has at that date, or any time afterwards, any disposing power which he might, without assent of any other person, exercise for his own benefit.

12. Under a writ of *fi. fa.*, Sheriff may seize money or bank-notes, and cheques, bills of exchange, promissory notes, bonds, specialties, or other securities, for money of the debtor, and sue upon such securities in his (the Sheriff's) name; but Sheriff not bound to sue upon them unless indemnified.

13. A judgment to operate as a charge upon real estate of debtor, in the same manner as if the judgment-debtor had by writing agreed to charge the real estate with the judgment, debt, and interest; but no proceedings are to be taken in equity to obtain the benefit of such charge until expiration of one year from date of judgment.

14. Government stock, or shares in any public company in England of judgment-debtor, may, by order of a judge of a superior court at Westminster, stand charged with judgment, debt, and interest; such order to entitle judgment-creditor to same remedies as if such charge were made by judgment-debtor; but no proceedings shall be taken to enforce such charge till expiration of six calendar months from date thereof.

15. Such charging order, after notice to the bank or company, is to operate as a *distringas*.

16. Judgment-debts to carry interest at 4 per cent. from date.

18. Decrees of equity, and rules of common law, and orders in lunacy, to have the effect of judgments.

19. No judgment to affect real estate under this Act, as against purchasers, mortgagees, or creditors, until registered in Common Pleas in name of debtor.

2 & 3 VICT. c. 11.

4th June 1839.

1. Judgments registered under 1 & 2 Vict. c. 110 shall, after expiration of five years from registry, be void against

purchasers, mortgagees, or creditors, unless re-registered within five years before the execution of the conveyance or other instrument; or, as to creditors, within five years before their right accrued, and so, *toties quoties*, at the expiration of every succeeding five years.

5. Judgments, &c., though duly registered, not to affect purchasers or mortgagees without notice further than they would have done if duly docketed prior to 1 & 2 Vict. c. 110.

7. *Lis pendens* not to bind a purchaser or mortgagee without notice, unless registered in Common Pleas, and re-registered like a judgment.

8. Crown debts not to affect lands as to purchasers or mortgagees unless registered in Common Pleas.

12. Act not to extend to Ireland.

3 & 4 VICT. c. 82.

7th August 1840.

1. Extends sect. 14 of 1 & 2 Vict. c. 110 to interests in stock, whether in possession or reversion, vested or contingent, as well as to the annual produce thereof; also to stock standing in the name of the Accountant-General of the Court of Chancery.

2. Judgments not to affect purchasers, mortgagees, or creditors, unless registered, any notice thereof notwithstanding.

18 & 19 VICT. c. 15.

26th April 1855.

6. The lapse of more than five years since registration of judgment to be of no consequence, provided the judgment be re-registered within five years before the conveyance, &c.

11. Judgments and crown debts against mortgagees not to bind lands as against a purchaser, when such mortgagees are paid off prior to or at time of conveyance to such purchaser.

12. Annuities or rent-charges hereafter granted (otherwise than by marriage settlement) for life or lives or years, or greater estate determinable on lives, not to affect lands as against purchasers, &c., unless registered in Common Pleas.

14. Annuities and rent-charges given by will excepted.

23 & 24 VICT. c. 38.

23d July 1860.

1. No judgment hereafter entered up to affect land as to a *bonâ fide* purchaser or mortgagee (with or without notice), unless a writ of execution have been issued and registered prior to the conveyance and payment of purchase-money, and unless such execution be put in force within three calendar months after registration.

2. Such registry to be in the Common Pleas in the name of the *creditor*.

3 and 4. Judgments, unless registered and duly re-registered, not to have any preference against heirs, executors, or administrators, in the administration of assets.

27 & 28 VICT. c. 112.

29th July 1864.

1. No *future* judgment to affect land of any tenure until such land be *actually delivered in execution* under a writ of elegit or other lawful authority.

3. Such writ of execution to be registered in Common Pleas in name of *debtor*.

4. The creditor to whom land delivered in execution, and whose writ of execution is registered, is entitled to an order for sale from Court of Chancery, on petition in a summary way—such petition need be served on debtor only.

5. Other judgment-creditors, prior or subsequent, having *a charge on the land*, to be served with notice of order for sale, and proceeds of sale to be distributed according to priorities.

STATUTORY RELEASE.

4 & 5 VICT. c. 21.

18*th May* 1841.

1. A release of a freehold estate, executed on or after the 15th May 1841, *expressed to be made in pursuance of this Act*, to be as effectual as if a bargain and sale or lease for a year had also been executed.

2. The recital of a bargain and sale or lease for a year, in a release executed before the 15th May 1841, to be conclusive evidence of the execution of such bargain and sale or lease for a year.

REAL PROPERTY AMENDMENT ACT.

8 & 9 VICT. c. 106.

4*th August* 1845.

2. After the 1st October 1845, all corporeal hereditaments shall, as regards the conveyance of the immediate freehold thereof, be deemed to lie in grant as well as in livery.

3. Feoffments (except under custom by infant), partitions, and exchanges (except of copyholds), leases required by law to be in writing, assignments of chattel interests (except copyholds), and surrenders in writing (except of copyholds or interests which might by law have been created without writing), made after 1st October 1845, to be void at law unless made by deed.

4. A feoffment made after 1st October 1845 not to have a tortious operation; an exchange or partition made after that date not to imply any condition in law; the word "give" or "grant" in a deed executed after that date not to imply any covenant in law, except so far as the words "give" or "grant" may by Act of Parliament imply a covenant.

5. Under an indenture executed after 1st October 1845, an immediate interest in hereditaments, and the benefit of a covenant respecting them, may be taken, although the taker be not a party to such indenture; no longer necessary to indent an indenture.

6. After the 1st October 1845, a contingent, an executory, and a future interest, and a possibility coupled with an interest in hereditaments of any tenure, also a right of entry, to be alienable by deed; but if by a married woman, to be executed conformably to 3 & 4 Wm. IV. c. 74.

7. After 1st October 1845, an interest in hereditaments in England may be disclaimed by a married woman by deed executed conformably to 3 & 4 Wm. IV. c. 74.

8. Contingent remainders to be capable of taking effect, notwithstanding the determination by forfeiture, surrender, or merger of any preceding estate of freehold.

9. When the reversion on a lease is surrendered or merged after 1st October 1845, the next estate shall, for purpose of preserving the incidents to such reversion as, but for such surrender or merger, would have subsisted, be deemed the reversion expectant on same lease.

10. Act not to extend to Scotland.

SATISFIED TERMS ACT.

8 & 9 VICT. c. 112.

8th August 1845.

1. Every satisfied term of years attendant upon the inheritance either by express declaration or construction of law on 31st December 1845, shall on that day cease and determine, except that such term, if attendant by express declaration, shall afford the same protection against incumbrances as if it had continued to subsist but had not been assigned after 31st December 1845.

2. Every term of years becoming satisfied after 31st December 1845 shall, immediately on becoming attendant upon the inheritance, absolutely cease and determine.

4. Act not to extend to Scotland.

THE SUCCESSION DUTY ACT, 1853.

16 & 17 VICT. c. 51.

4th August 1853.

1. The term "real property" to include freeholds, copyholds, and *leaseholds* in Great Britain and Ireland. "Personal property" not to include leaseholds. "Property" to include real and personal property.

2. Every past or future disposition of property whereby any person becomes entitled to property on the death of any person *dying after the commencement of Act*, and every devolution by law of any beneficial interest in property or income upon the death of a person dying after that time, to be deemed to confer on the person entitled, by reason of such disposition or devolution, a "succession;" and the term "successor" shall denote the person so entitled; and the term "predecessor" shall denote the person from whom the interest is derived.

3. The beneficial interest accruing to a joint-tenant by survivorship to be deemed a "succession."

4. A person exercising a general power of appointment, to be deemed to be entitled to the property appointed as a succession, derived from the donor of the power; and any person taking by exercise of a limited power of appointment, to be deemed to take the same as a succession, derived from the person creating the power.

5. The increase of benefit accruing to any person upon the extinction of a charge, by death of owner of charge, to be deemed a succession.

10. Rates of succession duty to be as follows:—

Where the successor shall be the lineal issue or ancestor of the predecessor, £1 per cent. upon the value.

Where the successor shall be a brother or sister, or a descendant of a brother or sister, £3 per cent.

Where the successor shall be a brother or sister of the father or mother, or a descendant of a brother or sister of the father or mother of the predecessor, £5 per cent.

Where the successor shall be a brother or sister of the

grandfather or grandmother, or descendant of the brother or sister of the grandfather or grandmother of the predecessor, £6 per cent.

Where the successor shall be any other relation, or a stranger in blood, £10 per cent.

15. Where any succession shall, before the successor becomes entitled thereto, become vested by alienation in any other person, the same succession duty to be payable as if no such alienation had taken place; and where a succession is accelerated by surrender of prior interests, same duty to be paid as if no acceleration had occurred.

16. Successions for charitable, or public, purposes to be subject to duty at £10 per cent., with power for the trustees to raise same on security of the property.

18. Exemptions from duty.—(1.) Where whole successions from same predecessor are not of value of £100. (2.) Where the succession is of less value than £20. (3.) Where if a legacy it would be exempt from legacy-duty.

20. Succession-duty to be paid on successor becoming entitled in possession.

21. The interest of a successor in real property to be considered to be of the value of an annuity equal to the annual value of such property, during his life, or any less period for which he may be entitled thereto; such annuity to be calculated according to the tables annexed to this Act; and the duty to be paid by eight equal half-yearly instalments, the first to be paid at expiration of twelve months next after successor becomes entitled in possession; and if successor die before all instalments have become due, then any instalments not due at his decease to cease to be payable, except in case of a successor competent to dispose by will of a continuing interest in such property, in which case the unpaid instalments to be a continuing charge on such interest, and be payable by owner thereof for the time being.

23. Timber to be charged with duty on the net monies derived per year from sales thereof, provided such monies exceed £10 a year.

24. Advowsons or church patronage only to be liable to duty if sold by the successor, and then duty to be paid on amount of sale monies.

29. Interest of successor in monies to arise from sale of real property under a trust for sale, so far as not chargeable with legacy-duty, to be deemed personal property, chargeable with duty under this Act; but if such monies are subject to re-investment in real property to which successor not absolutely entitled, they are to be deemed real property.

30. Personal property subject to any trust for investment thereof in the purchase of real property to which the successor would be absolutely entitled, so far as not chargeable with legacy-duty, to be chargeable with duty under this Act as personal property; and personal property subject to investment in purchase of real property to which successor not absolutely entitled, so far as not chargeable with legacy-duty, to be chargeable with duty under this Act as real property.

33. Donee exercising a general power of appointment, to be allowed to deduct from duty then payable any duty already paid by him in respect of any limited interest of his in the property.

34, 35, and 36. In calculating value of a succession, allowance to be made for incumbrances not created by successor, also for substantial repairs and improvements made by successor prior to possession. But no allowance for a contingent incumbrance; though, if it take effect, a return of duty to be made; and no allowance for contingency on happening of which property may pass to another, but if it so pass, a return of duty to be made.

38. If successor, on taking a succession, be bound to relinquish other property, he is to have an allowance in respect of it.

40. Duty may be paid in advance at a discount of 4 per cent.

42. The duty imposed by this Act to be a first charge on the interest of the successor, and of all persons claiming in his right in real property; and also on the interest of the successor in personal property, while the same remains in the ownership or control of the successor or his trustee, or of the husband of any wife who shall be successor. Such duty to be a debt to the crown, having, as to real property,

priority over all charges and interests created by the successor, but not to charge any other of his real property.

43. The Commissioners, at request of successor, are to make separate assessments of duty in respect of separate properties, or of defined portions of the same property; and in such cases the respective properties shall be chargeable only with the amount of duty separately assessed in respect thereof. Commissioners may by certificate also declare, that duties already assessed shall thenceforth, as to unpaid instalments, be charged on separate parts only of the property assessed.

44. Besides the successor, trustees, executors, and administrators are to be accountable for duty to extent of property received by them.

50. A person dissatisfied with Commissioners' assessment may appeal to Court of Exchequer; or, if sum in dispute in respect of duty not exceeding £50, to a County Court.

52. The receipt for succession duty to exonerate a *bonâ fide* purchaser for value without notice, notwithstanding misstatement, &c., in the account.

53. In suits for administration, court is to provide for legacy and succession duty.

54. Act to commence on the 19th of May 1853.

LOCKE KING'S ACT.

17 & 18 VICT. c. 113.

11*th August* 1854.

1. When any person dies after 31st December 1854, seised of any estate in lands charged with a mortgage debt, his heir or devisee shall not be entitled to have such mortgage debt discharged out of the personal estate, but the land so charged shall (without prejudice to the remedies of the mortgagee) be primarily liable to the payment of such mortgage debt, unless the mortgagor has by will or deed signified a contrary intention. But Act not to affect the rights of persons claiming under a will or document made before the 1st January 1855.

2. Act not to extend to Scotland.

LOCKE KING'S AMENDMENT ACT.

30 & 31 VICT. c. 69.

25*th July* 1867.

1. In construction of wills of persons dying after the 31st of December 1867, a general direction that all the debts of testator shall be paid out of his personal estate is not to include mortgage debts, unless they are expressly or by necessary implication referred to.

2. The word "mortgage" in Locke King's Act and this Act, to extend to a lien for unpaid purchase money on land purchased by a *testator*.

3. Act not to extend to Scotland.

LEASES AND SALES OF SETTLED ESTATES ACT.

19 & 20 VICT. c. 120.

29*th July* 1856.

1. The term "settlement" to signify any instrument by which lands are limited to persons by way of succession.

2. The Court of Chancery, if it shall deem it proper and consistent with a due regard for the interests of all parties, may authorise leases of settled estates upon the following conditions:

1*st*. Such lease to take effect in possession at or within a year after making thereof, and not exceeding for an agricultural or occupation lease 21 years, for a mining lease, or a lease of water, water-mills, way-leaves, water-leaves, or other rights or easements, 40 years, and for a building lease 99 years, or if the Court satisfied that it is the usual custom of the district, and beneficial to the inheritance, to grant *building* leases for longer terms, then for such term as the Court shall direct.

2*dly*. Such lease to be for the best rent, without fine.

3dly. Where the lease is of minerals, and the person entitled to the receipt of such rent is a person entitled to work such minerals for his own benefit, one-fourth part of such rent, and otherwise, three-fourth parts thereof shall be set aside and invested.

4thly. Such lease not to authorise felling of trees, unless necessary for clearing the ground for works authorised by the lease.

5thly. Such lease to be by deed, and to contain a condition for re-entry on non-payment of rent for not less than 28 days—counterpart to be executed by lessee.

5. A lease granted under this Act may be surrendered and renewed.

6. Court may authorise preliminary contracts for such leases.

7. The Court may authorise leases, either by approving of particular leases, or by vesting powers of leasing, in conformity with the Act, in trustees.

10. Such powers of leasing may be vested either in the existing trustees of the settlement or in any other persons: and the Court may impose conditions as to consents or otherwise on the exercise of such power.

11. The Court of Chancery may, if it deem it proper and consistent with a due regard for the interests of all parties, authorise a sale of any settled estates or timber thereon (except ornamental timber).

12. The consideration for land sold for building purposes may, by leave of Court, be a rent issuing out of such land.

13. On a sale of land, minerals may be excepted.

14. The Court may direct part of settled estates to be laid out for streets, squares, gardens, sewers, water-courses, &c., either to be dedicated to the public or not.

16. Any person entitled to possession, or receipt of the rents and profits, of any settled estates, for years, determinable on his death, or for life, or any greater estate, may apply to Court by petition to exercise the powers of the Act.

17. Application to Court is to be made with consent of following parties, viz.:

Where there is a tenant in tail under the settlement in existence and of full age, then such tenant in tail, or if there is more than one such tenant in tail, then the first of such tenants in tail, and all persons in existence having any beneficial interest under the settlement prior to such estate tail, and all trustees having any estate on behalf of any unborn child prior to such estate tail. And in every other case the parties to consent are the persons in existence having any beneficial interest under the settlement, and all trustees having any interest on behalf of any unborn child.

18. But unless there be a person entitled to an estate of inheritance whose consent cannot be obtained, the Court may give effect to any petition, subject to the rights of non-consenting parties.

19. Notice of any application to Court under this Act to be served on all trustees possessed of any estate in trust for any person whose consent is required.

20. Notice of such application to be inserted in such newspapers as Court shall direct, and any person, interested or not, may apply by motion for leave to be heard on such application.

21. No application under this Act to be granted where a similar application has been rejected by Parliament.

22. Court to direct that notice of the exercise of any of the powers of Act be placed on the settlement, or otherwise.

23. Monies received on sales under this Act, or set aside out of rent of minerals, may be paid to trustees or into the Bank, to the account of Accountant-General of Court of Chancery, *ex parte* the applicant in the matter of this Act, and be applied in:

(1) The redemption of land tax, or discharge of incumbrances on the hereditaments in respect of which such money was paid, or on other hereditaments subject to same trusts; or

(2) The purchase of other hereditaments to be settled on same trusts; or

(3) The payment to person absolutely entitled.

25. Until money be so applied, it shall be invested in Exchequer Bills or in 3 per cent. Consols, as the Court directs; and the dividends paid to the parties entitled.

26. Court may exercise the powers of this Act repeatedly; but it may not exercise them if they are expressly or impliedly negatived by the settlement.

28. Acts of the Court purporting to be in pursuance of Act not to be invalidated on the ground that Court was not authorised to empower the same.

29. Court may order the costs of application under Act to be a charge on the hereditaments, the subject of such application, or other hereditaments in same settlement; and to be raised by sale or mortgage of part of such hereditaments, or out of the rents.

32. Any person entitled to the possession or receipt of the rents and profits of any settled estates for life, or years determinable with his life, or for any greater estate, either in his own right or in right of his wife, unless settlement contain an express declaration to the contrary; and also any person entitled to the possession or receipt of the rents and profits of any unsettled estates as tenant by courtesy or in dower, or in right of a wife who is seised in fee, may, *without any application to the Court*, demise the same, except the principal mansion-house and the demesnes thereof, and other lands usually occupied therewith, for not exceeding 21 years to take effect in possession, provided such demise be by deed for the best rent, without fine, or other benefit in nature of a fine, such rent to be incident to the immediate reversion: and provided such demise be not without impeachment of waste, and contain a covenant for payment of rent and such other usual and proper covenants as lessor thinks fit, also a condition of re-entry on non-payment for a period not less than 28 days of the rent thereby reserved, and on non-observance of any of the covenants or conditions therein contained; and provided a counterpart be executed by lessee.

33. Such leases to be valid against grantor and all persons entitled to subsequent estates, under same settlement, if the estates be settled, and if unsettled, against all persons claiming through the wife or husband of grantor.

34. Execution of lease by lessor to be sufficient evidence that counterpart been executed by lessee.

36. Applications under Act on behalf of infants, lunatics, and bankrupts, may be made by their guardians, committees, and assignees respectively.

37. A married woman applying to Court under Act is to be examined apart from her husband, as to her free consent, and that whether the hereditaments are settled to her separate use or not: and no clause restraining anticipation shall prevent Court exercising powers of Act.

38. Such examination to be made either by the Court or by some solicitor duly appointed by the Court.

39. Subject to such examination, married women may make or consent to applications whether of full age or infants.

41. Persons entitled to the possession, or receipt of the rents and profits of estates, may exercise the powers of Act although their estate be incumbered, but the interests of incumbrancers shall not be thereby affected, unless they concur.

42. Act not to authorise sale, or lease beyond 21 years, of estates in which by Act of Parliament tenants in tail are restrained from barring their entails, or where reversion is vested in Crown.

43. Act not to authorise a lease of copyholds contrary to custom of manor without lord's consent.

44. Act extends to settlements made before or after it comes in force, except the provisions as to demises to be made without leave of Court, which shall extend only to settlements made after Act comes in force.

45. Act not to extend to Scotland.

46. Act to come in force on the 1st November 1856.

SETTLED ESTATES AMENDMENT ACT.

21 & 22 VICT. c. 77.

2d August 1858.

2. The term "building lease" in 19 & 20 Vict. c. 120, to

include repairing lease, but no repairing lease to exceed 60 years.

3. The powers to grant leases contained in said Act, to include powers to lords of settled manors to licence their copyholders to grant similar leases.

4. The power given by sec. 2 of said Act, to extend the term for building leases, to apply to all other leases mentioned in that section (except agricultural leases).

6. The examination of a married woman out of the jurisdiction, under sec. 38 of said Act, may be made by any person appointed by the Court, whether a solicitor or not.

8. Demises under sect. 32 of said Act to be valid against the wife of any husband making such demise of estates to which he is entitled in right of such wife.

SETTLED ESTATES FURTHER AMENDMENT ACT.

27 & 28 VICT. c. 45.

14th July 1864.

1. In orders to be made under sect. 10 of 19 & 20 Vict. c. 120, for vesting powers of leasing in trustees or others, no condition is to be inserted requiring leases to be settled by the Court, or to be conformable with a model lease, unless the parties desire it, or the Court think it expedient.

3. In determining what are settled estates within 19 & 20 Vict. c. 120, the Court is to be governed by state of facts at the time of the settlement taking effect.

5. Act to extend to Ireland, but not to Scotland.

REVERSIONARY INTERESTS OF MARRIED WOMEN IN PERSONAL ESTATE.

20 & 21 VICT. c. 57.

25th August 1857.

1, 2, 3, & 4. After the 31st December 1857, every married woman may, by deed, dispose of her reversionary

interest, vested or contingent, in personal estate derived under any instrument made after that date, except her marriage settlement, and may extinguish a power over such personal estate, and release her equity to a settlement out of personal estate to which she is entitled in possession under any such instrument as aforesaid, but no such disposition to be valid unless the husband concur in the deed, and the deed be duly acknowledged, under 3 & 4 Wm. IV. c. 74. Act not to extend to any reversionary interest of which there is a restraint on alienation.

5. Act not to extend to Scotland.

LORD ST. LEONARD'S LAW OF PROPERTY AMENDMENT ACT.

22 & 23 VICT. c. 35.

13*th August* 1859.

LEASES.

1. Where any licence to do any act, which without such licence would create a forfeiture under a condition in the lease shall hereafter be given, such license shall, unless otherwise expressed, extend only to the permission actually given, and shall not prevent any proceeding for any subsequent breach, and the condition of re-entry shall remain in all respects as if such licence had not been given, except in respect of the particular matter authorised to be done.

2. Where a lease contains a power of re-entry on assigning or doing any other act without licence, and licence be given to one of several lessees to assign or do any other act prohibited without licence, or be given to a lessee as to part of the property, such licence not to extinguish the right of re-entry for breach of covenant by co-lessees, or by lessee of the rest of the property.

3. Where the reversion on a lease is severed, and the rent legally apportioned, the assignee of each part of the

reversion shall in respect of the apportioned rent, have same powers of re-entry for non-payment, as if such powers were originally reserved to him.

POLICIES OF INSURANCE.

4. A Court of Equity may relieve against forfeiture for breach of a covenant to insure, if no damage by fire has happened, and the breach has in the opinion of the Court been committed through accident or mistake, or otherwise, without fraud or gross negligence, and there is an insurance on foot at time of application to Court in conformity with covenant.

5. If relief be granted, a record thereof is to be made by indorsement on lease or otherwise.

6. The Court not to relieve same person more than once in respect of same covenant; nor to relieve if a forfeiture has been already waived out of Court.

7. A lessor or mortgagee to have the same benefit from an informal insurance as from an insurance effected in conformity with the covenant.

8. If a purchaser of leaseholds under a lease containing a covenant by lessee to insure, be furnished with the receipt for the last payment of rent due before completion of purchase, *and* there be subsisting at the completion of purchase an insurance in conformity with the covenant, the purchaser will not be subject to any liability for past breach of such covenant committed before completion of purchase, of which he had not notice.

RENT-CHARGES.

10. The release from a rent-charge of part of the hereditaments charged therewith not to extinguish the whole rent-charge, but only to bar the right to recover any part of it out of the hereditaments released, but without prejudice to rights of persons interested in the hereditaments unreleased, and not concurring in the release.

JUDGMENTS.

11. The release from a judgment of part of any hereditaments charged therewith not to affect the validity of

the judgment as to the hereditaments unreleased, but without prejudice to the rights of persons interested in the hereditaments unreleased, and not concurring in the release.

POWERS.

12. A *deed* hereafter attested by two witnesses shall, as to attestation, be a valid execution of a power of appointment by deed, or writing not testamentary, notwithstanding it be expressly required that a deed or writing in exercise of such power be attested with some additional or other solemnity. This enactment not to dispense with the consent of any person required.

13. Where under a power a sale be made of an estate with the timber, or other articles attached thereto, and the tenant-for-life or any other party by mistake receive part of the purchase-money as the value of the timber, &c., the Court of Chancery may declare that, upon payment by the purchaser of the full value of the timber, &c., at the time of sale, with interest, and the settlement of such monies upon the parties entitled, the said sale ought to be established.

CHARGE OF DEBTS.

14. Where by will coming into operation after passing of this Act a testator charges his real estate with the payment of debts, or legacies, or other specific sums of money, and devises the estate so charged to trustees for his whole interest therein, and makes no express provision for the raising of such debts, legacies, or sums of money, the said devisees in trust may raise same by sale or mortgage of the said hereditaments.

15. Powers conferred by last section to extend to persons in whom the estate devised be vested by survivorship, descent or devise, or to a person appointed new trustee.

16. If testator, who creates such a charge as described in sec. 14, does not so devise the hereditaments charged as that his whole interest therein shall become vested in any trustee, then his executors shall have the like power of raising the said monies, as hereinbefore vested in the devisees in trust of the said hereditaments; but any sale or mortgage

under this Act, shall operate only on the interest of the testator, and shall not render it unnecessary to get in any outstanding legal estate.

17. Purchasers or mortgagees not to be bound to inquire whether the powers conferred by secs. 14, 15 and 16 have been duly exercised.

18. Sections 14, 15 and 16 not to extend to a devise in fee or in tail, or for testator's whole interest charged with debts or legacies, nor to affect the power of any such devisee to sell or mortgage as he may by law now do.

INHERITANCE.

19. Upon total failure of heirs of the purchaser, or where land descendible, as if an ancestor had been the purchaser, and there be total failure of the heirs of such ancestor, then descent to be traced from person last entitled, as if he had been the purchaser.

ASSIGNMENT OF PERSONALTY.

21. Any person is to have power to assign personalty, including chattels real, directly to himself and another person or persons or corporation, by the like means as he might assign the same to another.

CROWN DEBTS.

22. After December 31st, 1859, the provisions of 2 and 3 Vict. c. 11, and 18 and 19 Vict. c. 15 as to registry and re-registry of judgments shall apply to Crown Debts.

PURCHASERS.

23. The *bonâ fide* payment to and receipt of any person to whom purchase or mortgage money be payable upon any express or implied trust, shall be an effectual discharge; unless the contrary be expressly declared by instrument creating the trust.

24. Any seller or mortgagor of lands or chattels, or his solicitor or agent, who hereafter conceals any instrument

material to the title, or any incumbrance, from the purchaser; or falsifies any pedigree, to induce a purchaser to accept the title, with intent to defraud, shall be guilty of a misdemeanour, punishable by fine, or imprisonment not exceeding two years, with or without hard labour, or both; also shall be liable to an action for damages at suit of purchaser or mortgagee: but no prosecution to be commenced under this section without sanction of Attorney or Solicitor-General; and such sanction not to be given without such notice of application for leave to prosecute, to the defendant, as the Attorney or Solicitor-General may direct.

TRUSTEES AND EXECUTORS.

26. No trustee, executor or administrator, making any payment *bonâ fide*, under a power of Attorney, to be liable by reason that the person giving such power was dead at time of such payment, or had avoided the power, provided such death or avoidance was unknown to such trustee, executor, or administrator, at time of such payment; but the person entitled to the money shall have the same remedy against the person to whom it shall be paid, as he would have had against such trustee, executor, or administrator, if the money had not been paid away under such power.

27. Where an executor or administrator, has satisfied all such liabilities under a lease to his testator or intestate, as have accrued due up to the time of the assignment hereafter mentioned, and has set apart a sufficient fund to answer any future claim in respect of any fixed sum agreed by the lessee to be laid out on the property, and has assigned the lease to *a purchaser*, he may distribute the residuary personal estate of the deceased amongst the parties entitled, without being personally liable for any subsequent claim under said lease; but this shall not prejudice the lessor's right to follow the deceased's assets into the hands of the beneficiaries.

28. [This section contains a similar provision as to the liability of executors and administrators, to rent covenants or agreements contained in any conveyance, on chief rent or rent-charge, granted to the testator or intestate whose estate is being administered.]

29. Where an executor or administrator has given such

notices as would have been given by the Court of Chancery, in an administration suit, for creditors and others to send in their claims, he shall at the expiration of the time named in such notice, be at liberty to distribute the assets amongst the parties entitled; and shall not be liable for the assets so distributed to any person, of whose claim he had not notice at the time of the distribution of the said assets: but this shall not prejudice the right of any creditor to follow the assets into the hands of the beneficiaries.

30. Any trustee, executor, or administrator, may without suit, by petition or summons in Chancery, apply for the opinion or direction of the Judge on any question respecting the administration of the trust property, or the assets of the testator or intestate.

31. Every instrument creating a trust, expressly or by implication, shall be deemed to contain clauses for the indemnity and reimbursement of the trustees, in the form mentioned in this Act.

[The 32d section of this Act is inserted, *post* p. 50.]

33. Act not to extend to Scotland.

LAW OF PROPERTY FURTHER AMENDMENT ACT.

23 & 24 VICT. c. 38.

23*d July* 1860.

[Sections 1, 2, 3, and 4 are inserted, *ante* p. 30.]

WAIVER.

6. An actual waiver by a lessor of a covenant or condition in a lease after the passing of this Act, shall not extend to any breach, except that to which such waiver specially relates, unless a contrary intention appear.

SCINTILLA JURIS.

7. Where any hereditaments have been limited to uses, such uses are to take effect as they arise by force of the

seisin originally vested in seisenee to uses, and the continued existence in him, or elsewhere of any seisin to uses or scintilla juris, shall not be deemed necessary to give effect to future uses.

8. Section 24 of 22 and 23 Vic., c. 35, to be read as if the words "or mortgagee" had followed the word "purchaser," where the latter word is used in the said section.

TRUSTEES, EXECUTORS, &C.

9. Where a trustee, executor or administrator applies for the opinion of a Judge, under Section 30 of 22 and 23 Vic., c. 35, the petition to be signed by Counsel.

[Sections 10, 11, and 12 of this Act are inserted, *post* p. 50.]

13. After the 31st December 1860, no proceeding to be brought to recover share of the personal estate of an intestate, but within twenty years next after a right to receive the same has accrued to some person capable of giving a discharge for it; or within twenty years after part payment, or acknowledgment in writing, signed by accountable person or his agent.

14. The order to take an account of the debts, &c., of a deceased person, under sect. 19 of 13 and 14 Vic., c. 35, may be made at any time after *probate* or letters of administration granted either on motion or petition of course, or original summons; and after such order made, the Court may on application of executors or administrators, by motion or summons, suspend proceedings at law, by creditors of the deceased, against such executors or administrators, until such account has been taken.

15. Act not to extend to Scotland; only clause 6 and subsequent clauses to extend to Ireland.

INVESTMENT OF TRUST FUNDS.

4 & 5 WM. IV. c. 29.

25th July 1834.

1 and 5. Trustees authorised to lend on real securities in England, Wales, or Great Britain, may lend on real securities in Ireland, unless expressly forbidden by the instrument creating the trust.

22 & 23 VICT. c. 35.

13*th August* 1859.

32. A trustee, executor, or administrator, unless forbidden by the trust instrument, may invest on real securities, in any part of the United Kingdom, or on the Stock of the Bank of England, or Ireland, or on East India Stock.

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23 & 24 VICT. c. 38.

23*d July* 1860.

10. Lord Chancellor, with assistance of Master of Rolls, &c., may make general orders as to investment of cash under control of the Court.

11. When such order made, trustees, executors, or administrators having power to invest on Government or Parliamentary securities, may invest in any securities on which cash under control of Court may be invested.

12. Clause 32 of 22 and 23 Vic. c. 35, shall operate retrospectively.

[By general order of 1st February 1861, pursuant to section 10, cash under control of Court may be invested on Bank Stock, East India Stock, Exchequer Bills, £2, 10s. per Cent. Annuities, mortgages of freeholds and copyholds in England and Wales, Consols, Reduced, and New Threes.]

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23 & 24 VICT. c. 145.

28*th August* 1860.

25. Trustees under instruments executed after 28th August 1860, may invest in Parliamentary or Government securities, and may call in funds invested on other securities, and invest same on the said securities, with power to vary investments for others of same nature: but no original investment (except in consols,) and no change of investment to be made where there is a person under no disability entitled in possession, without his written consent.

30 & 31 VICT. c. 132.

20*th August* 1867.

1. The term "East India Stock" in 22 and 23 Vic. c. 35, to include New East India Stock as well as Old.

2. Trustees, executors or adminstrators may invest in any securities, the interest of which is guaranteed by Parliament.

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34 & 35 VICT. c. 27.

29*th June* 1871.

1 and 2. Trustees, executors or administrators having power to invest trust funds on mortgages or bonds of a Railway, or other Company, may invest on the Debenture Stock of such Company, unless a contrary intention be expressed in the trust instrument.

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34 & 35 VICT. c. 47.

13*th July* 1871.

13. Trustees, executors and others empowered to invest in Government Securities, may, unless forbidden by the trust instrument, whether prior in date to this Act or not, invest in Metropolitan Consolidated Stock.

LORD CRANWORTH'S TRUSTEE AND MORTGAGEE ACT.

23 & 24 VICT. c. 145.

28*th August* 1860.

PART I.

TRUSTEES.

1. Trustees who *by express declaration* have a power of sale over hereditaments, may sell, either together or in lots, by public auction or private contract, at one time or several times, and (if expressly authorised to exchange)

may exchange for any other hereditaments in England or Wales or in Ireland (as the case may be), and give or receive money for equality of exchange.

2. Such sale or exchange may be under special stipulations as to title or otherwise, and the trustees may buy in, and rescind, or vary the contract, and resell, without being responsible for loss; and no purchaser to be bound to enquire whether the trustees have in contemplation any particular re-investment of purchase-money.

3. The trustees exercising such power of sale or exchange to have full power to convey.

4. The money received upon such sale or exchange to be laid out as indicated in the trust instrument, or if no such indication, then in purchase of other hereditaments in England or Wales or in Ireland (as the case may be), or of leaseholds or copyholds convenient to be held therewith, or with other hereditaments subject to same trusts; and freeholds so purchased or taken in exchange shall be settled to the same uses as the hereditaments sold or given in exchange were subject, but not so as to multiply charges: and leaseholds or copyholds so purchased or taken in exchange shall be settled upon such trusts as shall correspond with the aforesaid uses; but not so as to multiply charges; and so that if any hereditaments so purchased be held for a lease for years, they shall not vest absolutely in any tenant-in-tail by purchase who shall not attain 21 years; and provided that no leaseholds shall be purchased which are held for less than 60 years.

5. The trustees, instead of laying out such monies in purchase of lands, may apply the same in paying off incumbrances upon the hereditaments subject to same uses as those sold.

6. No money arising from such sale or exchange to be laid out in lands, nor lands to be exchanged for lands, situate elsewhere than in the country in which the lands sold or exchanged are situate.

7. Until such monies be disposed of as aforesaid, they shall be invested at interest for the benefit of the parties entitled to the hereditaments to be purchased therewith.

8. Trustees of renewable leaseholds *may*, and if required by a beneficiary, *must*, endeavour to obtain a renewed lease of

the same on reasonable terms, and for that purpose may surrender the subsisting lease, and do other requisite acts; but this is not to apply where by the terms of the instrument the person in possession is entitled to enjoy the same without renewing.

9. Money required for equality of exchange or renewal of leases may be paid by the trustees out of trust monies in their hands; and if not sufficient money in hand, they may raise same by mortgage of the hereditaments to be received in exchange or contained in the renewed lease, or of other hereditaments subject to the same uses.

10. No sale, exchange, or purchase as aforesaid shall be made without consent of the person appointed to consent by the trust instrument, or if no one appointed, then of the person entitled to the rents and profits of such hereditaments, if under no disability; but this clause shall not require the consent of any person where it appears from the instrument that no consent was to be required.

PART II.

MORTGAGEES.

11. Where principal money is secured *by deed* on hereditaments of *any tenure*, or on *any interest* therein, the mortgagee, his executors, adminstrators, and assigns, shall at any time after expiration of one year from time when such principal has become payable, or after any interest has been in arrear for six months, or after omission to pay any premium on insurance which by the terms of the deed ought to be paid by the mortgagor, have the following powers, namely:—

(1*st.*) A power to sell or concur in selling the property by public auction or private contract, subject to any reasonable conditions, and to rescind or vary contracts for sale, or buy in and re-sell.

(2*dly.*) A power to insure against fire, and to add the premiums to the principal money secured at the same rate of interest.

(3*dly.*) A power to appoint receiver.

12. Receipts for purchase-money given by the person exercising the power of sale to be sufficient discharge to purchasers.

13. No sale to be made till after six months' notice in writing to the mortgagor, or affixed on some conspicuous part of the property; but after sale effected the purchaser's title not to be impeached on ground that sale was unauthorized, or that no such notice was given.

14. The sale monies to be applied in payment of:—1st, expenses of sale, or attempted sale; 2dly, interest and costs; 3dly, the principal; and the residue is to be paid to the mortgagor.

15. The mortgagee to have power by deed to convey to the purchaser the property sold *for all the estate and interest therein which the mortgagor had power to dispose of*, except that in the case of copyholds the beneficial interest only shall be vested in the purchaser, by such deed.

16. At any time after the aforesaid power of sale has become exercisable, the mortgagee shall be entitled to recover from mortgagor all the documents in his power relating to the property, and where the legal estate is outstanding in a trustee, the person entitled to a charge created by a person equitably entitled, or any purchaser from him, shall be entitled to call for a conveyance of the legal estate to the same extent as the person creating the charge could have done.

17. Any person entitled to appoint a receiver may appoint any person named in the deed for that purpose to be receiver, or, if no one named, may, by writing delivered to the mortgagor, or affixed on conspicuous part of property, require him to appoint a receiver, and if no appointment be made within ten days thereafter, then the mortgagee may, in writing, appoint any person receiver.

18. Every receiver so appointed to be deemed the agent of the mortgagor.

19. Every such receiver to have power to recover the rents, by action, distress, or otherwise, in the name of the mortgagor or mortgagee.

20. Every such receiver may be removed in like manner as provided with respect to his appointment, and new receivers may be appointed.

21. Every such receiver to be entitled to such commission, not exceeding 5 per cent. on the gross amount received, as specified in his appointment, and if no amount specified, then 5 per cent. on such gross amount.

22. Every such receiver shall, if directed in writing by the mortgagee, insure the property against fire, out of the money received by him.

23. Every such receiver shall apply the money received by him :—

1*st.* In discharge of taxes and rates, and payment of his commission, and the premiums on the insurances, if any.

2*dly.* In payment of all interest due, and shall pay residue to mortgagor.

PART III.

MAINTENANCE, TRUSTEES, EXECUTORS.

[Section 25 of this Act is inserted, *ante* p. 50.]

26. Trustees holding property in trust for an infant, either absolutely, or contingently on his attaining 21, may apply for his maintenance or education, the whole or part of the income thereof, whether there be any other fund applicable to the same purpose or not; and shall accumulate the residue of income by way of compound interest, by investing it and the resulting income, for the benefit of the person ultimately entitled; and the trustees may apply such accumulations as if they were part of the income of the then current year.

27. Whenever a trustee, whether appointed by Court of Chancery or otherwise, dies, or desires to be discharged from, or becomes unfit, or incapable to act in the trusts, the person nominated for that purpose by the trust instrument (if any), or, if none, or none willing to act, then the surviving or continuing trustees or trustee, or the acting executors or administrators of the last surviving and continuing trustee,

or the last retiring trustee, may by writing appoint a new trustee or new trustees; and every new trustee so appointed, as well before as after conveyance of the trust property to him, and, also every trustee appointed by the Court of Chancery, either before or after the passing of this Act, shall have the same powers, as if he had been originally nominated a trustee by the instrument creating the trust.

28. The aforesaid power of appointing new trustees may be exercised where a trustee nominated in a will has died in testator's lifetime.

29. The receipt in writing of any trustee for money payable to him by reason of any trusts reposed in him, shall be a sufficient discharge, and shall effectually exonerate the person paying the money from seeing to the application thereof.

30. Executors may pay debts on any evidence that they think sufficient, and accept any composition, or any security for debts due to deceased, and allow time for payment of such debts, and compromise or submit to arbitration all claims relating to the estate of the deceased.

PART IV.

GENERAL PROVISIONS.

31. The party entitled to the possession of the property may exercise the powers of this Act, although his estate be encumbered by himself or otherwise; but the interests of incumbrancers are not to be affected, unless they concur.

32. The powers of this Act to take effect unless expressly negatived by the instrument; and if not expressly negatived, then to take effect subject to the variations contained in the instrument.

34. This Act, except as herein-otherwise provided, to extend only to person entitled or acting under an instrument executed after the passing of Act, or under a will, or codicil confirmed, or revived by a codicil executed after that date.

SALES BY TRUSTEES OF LAND OR MINERALS SEPARATELY.

25 & 26 VICT. c. 108.

7th August 1862.

1. No past sale, or exchange of land, reserving the minerals, or of minerals apart from the land, made by trustees in exercise of a power not forbidding the same respectively, shall be invalid on the ground that the power did not authorise such reservation or sale.

2. Trustees authorised to dispose of land by way of sale, exchange, partition, or enfranchisement, may, unless forbidden by the trust instrument, dispose of the same, reserving the minerals, with or without powers of working the same, and may (unless forbidden) dispose of the minerals with or without such powers as aforesaid, apart from the land; but no such disposition as aforesaid to be made without the previous sanction of the Court of Chancery obtained on petition in a summary way by such trustees, which sanction once obtained shall authorise any disposition within this enactment of any part of the land comprised in the order made on such petition, without the necessity of any further application to the Court.

3. Act not to extend to Ireland or Scotland.

PARTNERSHIP.

28 & 29 VICT. c. 86.

5th July 1865.

1. The loan of money to a person or partnership engaged in any trade or undertaking, upon a contract, *in writing*, that the lender shall receive interest varying with the profits, or a share of the profits, shall not, of itself, constitute the lender a partner with the person carrying on such trade or undertaking.

2. No contract for the remuneration of a servant or agent by a share of the profits, shall, of itself, render such servant or agent responsible as a partner.

3. No widow or child of the deceased partner of a trader, and receiving as an annuity a portion of the profits, shall thereby be deemed to be a partner.

4. No person receiving, as an annuity or otherwise, a portion of the profits, in consideration of the sale of the goodwill, shall thereby be deemed a partner.

5. In the event of any such trader being adjudged bankrupt, or entering into any arrangement to pay his creditors less than 20s. in the pound, or dying insolvent, such lender, or vendor of goodwill as aforesaid, shall be postponed till the other creditors have been paid in full.

SALE OF LAND BY AUCTION ACT, 1867.

30 & 31 VICT. c. 48.

15*th July* 1867.

2. Act to commence on the 1st of August 1867.

4. Hereafter, whenever a sale by auction of land would be invalid *at law* by reason of the employment of a puffer, the same shall be invalid *in equity* also.

5. The particulars or conditions of sale by auction of land, shall state whether the sale is without reserve, or subject to a reserve price, or whether a right to bid is reserved; if it is stated that the sale is without reserve, or to that effect, then it shall not be lawful for the seller to employ any person to bid at such sale.

6. Where any sale by auction of land is declared, either in the particulars or conditions, to be subject to a right for the seller to bid, it shall be lawful for the seller, or any one person on his behalf, to bid at such auction in such manner as he may think proper.

7. The practice of opening the biddings on sales by auction under order of Court of Chancery, on the ground that a larger sum is bid for the property, shall henceforth be discontinued—except on the ground of fraud or improper conduct

in the management of the sale, upon the application of any person interested in the land, such application to be made to the Court or Judge before the Chief Clerk's certificate of the result of the sale shall have become binding.

9. Act not to extend to Scotland.

SALES OF REVERSIONS.

31 VICT. c. 4.

7th December 1867.

1. No purchase made *bona fide*, without fraud or unfair dealing, of any reversionary interest in real or personal estate, shall hereafter be set aside merely on the ground of undervalue.

2. Word "Purchase" to include every kind of contract or conveyance by which any benefical interest in any property may be acquired.

3. Act to commence on 1st January 1868, and not to affect pending suits.

SPECIALTY AND SIMPLE CONTRACT DEBTS OF DECEASED PERSONS.

32 & 33 VICT. c. 46.

2d August 1869.

1. No debt of a person dying on or after 1st January 1870 to be entitled to priority because it is under seal, or otherwise is a specialty debt, but the specialty and simple contract creditors of such person shall stand in an equal degree, whether the assets be legal or equitable, notwithstanding any statute to the contrary; but Act not to affect securities held by creditors.

2. Act not extend to Scotland.

THE NATURALIZATION ACT, 1870—ALIENS.

33 VICT. c. 14.

12*th May* 1870.

2. Real and personal property of every kind may be held and disposed of by an alien in same manner as by a natural-born British subject; and title to property of every kind may be derived through him in like manner, provided—

(1.) This is not to entitle him to hold real property situate out of United Kingdom, or any office, municipal or parliamentary, or other franchise.

(2.) Nor to any privilege as a British subject, except as hereby expressly given him.

(3.) This section not to affect any property to which a person becomes entitled under a disposition made before passing of Act, or by devolution upon the death of a person dying before passing of Act.

3. Aliens who have been naturalised as British subjects, may divest themselves of their status as such in certain cases by making a declaration of alienage; such declaration, if declarant be in the United Kingdom, to be before a Justice of Peace; if elsewhere in Her Majesty's dominions, before a Judge of a Civil or Criminal Court, or Justice of Peace, or person authorized to administer oaths for legal purposes; if out of such dominions, before a diplomatic or consular officer of Her Majesty.

4. British-born subjects, being at birth also subjects of a foreign state, may, if of full age and under no disability, cease to be British subjects by making such declaration of alienage as aforesaid. Persons born out of Queen's dominions, of a father being a British subject, may, if of full age and under no disability, cease to be British subjects by the same means.

5. Hereafter an alien shall not be entitled to a jury *de medietate linguæ*.

6. A British subject in a Foreign State upon voluntarily becoming naturalised in such state, shall, if not under disability, cease to be a British subject, unless he make a declaration of British nationality and take the oath of allegiance; such declaration and oath to be made before

the same kind of persons as the aforesaid declaration of alienage.

7. An alien who within such limited time as allowed by a Secretary of State has resided in United Kingdom for five years, or been in service of the Crown not less than five years, and intends when naturalised to reside in the United Kingdom, or to serve under Crown, may apply to Secretary of State for certificate of naturalisation, and such Secretary may grant or refuse it, as he thinks best for the public good.

8. A natural-born British subject become a statutory alien, *i.e.*, an alien in pursuance of this Act, may apply to a Secretary of State for a certificate of re-admission to British nationality, and such Secretary shall have the same discretion as in case of a certificate of naturalisation.

10. (1.) A married woman shall be deemed a subject of the State of which her husband is a subject.

(2.) A widow being a natural-born British subject, become an alien by her marriage, shall be deemed a statutory alien.

13. Act not affect the grant of letters of denisation by Her Majesty.

14. Act not to qualify an alien to be owner of a British ship.

THE APPORTIONMENT ACT, 1870.

33 & 34 VICT. c. 35.

1*st August* 1870.

2. Hereafter all rents, annuities (including salaries and pensions) dividends and other periodical payments in the nature of income (whether payable under a written instrument or otherwise) shall, like interest on money lent, be considered as accruing from day to day, and be apportionable in respect of time accordingly.

3. But the apportioned part of such rent, &c., is not to be payable until the next entire portion becomes due.

4. All persons are to have the same remedies for recovering the apportioned parts, when payable, as they would have had for recovering the entire portions, if entitled thereto;

provided that persons liable to pay rent in respect of lands, and such lands, shall not be resorted to for such apportioned part, but the entire rent including such apportioned part, shall be received by the person, who, if the rent had not been apportionable, would have been entitled to such entire rent, and such apportioned part shall be recoverable from such person by action or suit.

6. Act not to render apportionable any annual sums made payable in policies of assurance of any kind.

7. Act not to apply where it is expressly stipulated that no apportionment shall take place.*

MARRIED WOMAN'S PROPERTY ACT, 1870.

33 & 34 VICT. c. 93.

9th August 1870.

1. The wages and earnings of a married woman hereafter acquired in any employment or trade which she carries on separately from her husband, also any money or property so acquired by her literary, artistic, or scientific skill, and all investments of such earnings, money, or property, are to be for her separate use, independent of any husband, and her receipts alone are to be sufficient discharges for same.

2. Deposits hereafter made in any Savings' Bank, and Government Annuities granted in name of a married woman, or a woman married after such deposit or grant, are to be her separate property, and be paid to her as if she were an unmarried woman.

3. Any woman married, or about to marry, may apply to Bank of England or Ireland, that any public stocks, not less than £20, to which she is entitled, may be transferred into her name, or intended name, as a married woman, entitled for her separate use; and after such transfer the same shall be her separate property, and be dealt with as if she were an unmarried woman.

* For the old law upon the subject of Apportionment, see 11 Geo. II., c. 19, and 4 and 5 Wm. IV., c. 22.

4. Any woman married, or about to marry, may apply in writing to any Incorporated or Joint-Stock Company, that any fully paid-up shares, or any debenture, debenture stock, or stock, *to the holding of which no liability is attached*, may be registered in her name, or intended name, as a married woman entitled to her separate use, and the Company are to register same accordingly, and thereupon the same shall be her separate property, and be dealt with as if she were an unmarried woman.

5. Any woman married, or about to marry, may apply in writing to any Industrial and Provident, Friendly, Benefit, Building, or Loan Society, duly registered that any share or benefit *to the holding of which no liability is attached*, may be entered in the books of Society in her name, or intended name, as a married woman entitled to her separate use, and the Society are to enter same accordingly, and thereupon the same shall be her separate property, and be dealt with as if she were an unmarried woman.

2, 3, 4, and 5. Provided, that if any such deposit or annuity, investment in the funds, or in shares, &c., of a Company, or share or benefit in any such Society, be made or obtained by means of monies of her husband, without his consent, the Court may, under sec. 9, order the same and the dividends and income thereof to be paid to husband.

6. Act not to give validity to any deposit or investment of monies of husband made in fraud of creditors.

7. Any woman married after 9th August, 1870, who, during marriage becomes entitled to any personal property as next of kin of an intestate; or to not exceeding £200, under deed or will, shall, subject to any settlement thereof, hold the same for her separate use, and her receipts alone shall be a good discharge.

8. Where freeholds or copyholds descend on a woman married after 9th August 1870, as heiress or co-heiress of an intestate, the rents thereof shall, subject to any settlement thereof, belong to her for her separate use, and her receipts alone shall be a good discharge.

9. Disputes between husband and wife as to property hereby declared to be her separate property, are to be determined either by Court of Chancery of England or Ireland, upon summons or motion, or in England (whatever the value)

by a County Court Judge of district in which either party resides; the decision of such Judge to be subject to appeal as in case of an equitable plaint.

10. A married woman may insure her own or her husband's life for her separate use, and the full benefit of same, if expressed on policy to be so effected, shall enure accordingly. A policy effected by a married man on his own life, and expressed on face of it to be for benefit of his wife, or wife and children, shall enure for benefit of his wife for her separate use, and for his children, according to the interest so expressed, and shall not be under control of husband or his creditors. When the policy monies become payable, or previously, a trustee thereof may be appointed by Court of Chancery of England or Ireland, or in England by a County Court Judge, or in Ireland by Chairman of Civil Bill Court, of the division in which the Insurance Office is situate, and such trustee's receipt shall be good discharge to the office.

If proved that such policy was effected, and premiums paid by husband with intent to defraud creditors, they shall receive out of the sum secured an amount equal to the premiums so paid.

11. A married woman may maintain an action in her own name for recovery of any property hereby declared to be her separate property, or of any property belonging to her before marriage, and which her husband has, by writing under his hand agreed, shall belong to her after marriage as her separate property, and she shall have in her own name same remedies, civil and criminal, for protection and security of any such property, and any property purchased therewith, as if such property belonged to her as an unmarried woman; and in any indictment or other proceeding, it is sufficient to allege such property to be hers.

12. A husband married after 9th August, 1870, not to be liable for his wife's debts contracted before marriage, but she shall be liable to be sued for, and any property belonging to her for her separate use shall be liable for, such debts, as if she had continued unmarried.

13. Married woman having separate property, is to be liable to the parish for maintenance of husband, in same manner as husband now liable for maintenance of wife.

14. Married woman having separate property is to be

subject to same liability for maintenance of her children as a widow is, but this not to relieve the husband.

15. Act to commence on 9th August, 1870.

16. Not to extend to Scotland.

17. Short title, "The Married Woman's Property Act, 1870."

THE STAMP ACT, 1870.

33 & 34 VICT. c. 97.

10*th August* 1870.

4. Instruments heretofore charged otherwise than by a Stamp Act, with 35s. are from commencement of this Act to be charged with 10s. only.

5. Except where expressly provided to the contrary, instruments relating to property of the Crown or Sovereign, are to be charged with duty.

10. All circumstances which affect the *ad valorem* duty on an instrument, are to be fully set forth therein Persons who, with intent to defraud—

(1.) Execute any instrument in which all the said circstances are not fully set forth.

(2.) Being employed in preparing such instrument, neglect to fully set forth such circumstances,

shall forfeit ten pounds.

13. Where an instrument comprising stock, &c., is stamped in accordance with a statement of average price therein contained, it shall be deemed duly stamped, until it is shown that such statement is untrue, and the stamp insufficient.

16. On production of an unstamped or insufficiently stamped instrument as evidence in Court, the officer whose duty it is to read the instrument, is to call the attention of the Judge to the fact, and if it is an instrument which may be legally stamped after execution, it may, on payment of unpaid duty and the penalty, and a further sum of one pound, be received in evidence.

[NOTE.—The above are only a few of the salient points in this Act, which is a long one, and not within the scope of the present work.]

LODGER'S GOODS PROTECTION ACT.

34 & 35 VICT. c. 79.

16*th August* 1871.

1. If a superior landlord levy a distress on the goods of a lodger for rent, due to superior landlord by his immediate tenant, such lodger may serve superior landlord, or the bailiff, with a written declaration by such lodger, that such immediate tenant has no right of property or beneficial interest in such goods, and that the same are the property, or in lawful possession, of such lodger; and setting forth what rent is due from such lodger to his immediate landlord, and such lodger may pay to superior landlord or his bailiff the rent so due, or sufficient of it to discharge superior landlord's claim. To such declaration shall be annexed an inventory, signed by lodger, of the goods referred to in the declaration; and if lodger know such inventory to be materially untrue, he shall be guilty of a misdemeanor.

2. If superior landlord or the bailiff, after being served with such declaration and inventory, and after lodger has paid or tendered such rent as aforesaid, proceed with such distress, he shall be guilty of an illegal distress, and lodger may apply to a justice of peace for an order for restoration to him of such goods, such application to be before one stipendiary, or two justices, who are to enquire into truth of such declaration and inventory, and make an order for recovery of goods or otherwise. Superior landlord also to be liable to action-at-law by lodger, in which action truth of declaration and inventory may also be enquired into.

3. Any payment by lodger under 1st section, to be deemed a valid payment, on account of rent due from him to his immediate landlord.

4. Act not to extend to Scotland.

APPENDIX.

THE CHARITABLE TRUSTEES INCORPORATION ACT, 1872.

35 & 36 VICT. c. 24.

27*th June* 1872.

1. After passing of this Act, the trustees of any charity for religious, educational, literary, scientific, or public charitable purposes, may apply to the Charity Commissioners for a certificate of registration of such trustees as a corporate body; and the Commissioners may grant the same, if they think it expedient, subject to such directions as they think fit to insert in it as to the number of trustees, their tenure of office, mode of appointing new ones, and use of common seal; and such trustees shall thereupon become a corporate body, by the name described in the certificate, and shall have a perpetual succession and a common seal of a device approved by the Commissioners, and power to sue and be sued in their corporate name, and to hold and acquire, notwithstanding the Mortmain Acts, and by instruments under their common seal, to convey, assign, and demise, any present or future property, real or personal, belonging to such charity, in such manner as such trustees might, without such incorporation, hold or acquire, convey, assign, or demise the same. But this Act is not to modify any of the provisions of 9 Geo. II. c. 36, or to make valid any gift or purchase which would be invalid under that Act.

2. The certificate of incorporation shall vest in such body corporate all real and personal estate of every tenure belonging to the charity, and thereupon persons holding stocks or securities, in trust for the charity, shall transfer same into the name of such body corporate, except as hereafter men-

tioned; and all covenants and conditions relating to real estate, enforceable by or against the trustees, before incorporation, shall be enforceable to the same extent, and by the same means, by or against them, after their incorporation. But if the property be copyhold, and liable to any fine or heriot, on death or alienation, the Lord of the Manor, on the granting of such certificate, and at the expiration of every period of forty years thereafter, whilst such property belongs to such body corporate, may take a sum equal to, and in full discharge of, such fine or heriot, and may recover same by same means as upon death or alienation. Such certificate is not to have the effect of transferring to the incorporated trustees any funds or securities held by the official trustees of charitable funds, but the same shall be transferable only by the official trustees to the incorporated trustees, at the discretion of the Commissioners.

3. The application for a certificate is to be made in writing, signed by the applicant, and is to contain the particulars specified in the schedule to the Act.

4. Before a certificate is granted, trustees of the charity shall have been duly appointed, and after it has been granted, new trustees, when necessary, shall be appointed in the same manner as if no such certificate had been granted, or as required by such directions as aforesaid. Such appointment to be certified to the Commissioners.

5. Notwithstanding such certificate of incorporation, the trustees of the charity shall be chargeable for its property, and for their own acts and defaults, and for the due administration of the charity, in the same manner as if no such incorporation had been effected, and the trustees shall remain subject, jointly and separately, to the control of the Commissioners as if they were not incorporated.

9. The application for such certificate, and the certificate, are to be charged with a stamp duty of ten shillings.

10. After such incorporation every gift and disposition of property, real or personal, theretofore lawfully made (but not having actually taken effect), or thereafter lawfully made by deed, will, or otherwise in favour of such charity, shall take effect as if the same had been made in favour of the incorporated body.

11. Contracts made by the trustees, which would be valid

according to the rules of the charity if no such incorporation had taken place, shall be valid, although the same be not made under their common seal.

13. In order to extend the provisions of 30 Vic. c. 57, and to facilitate the enrolling of deeds relating to charitable trusts, where the original deeds have been lost, or have not been enrolled in proper time, it is enacted that after the passing of this Act, if the Clerk of Inrolments in Chancery be satisfied, by affidavit or otherwise, that the instrument conveying or charging the heriditaments for charitable uses was made *bonâ-fide* for full and valuable consideration, actually paid at or before the making thereof, or reserved by way of rent-charge, or other annual payment, or partly paid and partly reserved in manner aforesaid, without fraud or collusion; and that at the time of the application to the said Clerk of Inrolments, possession is held under such instrument; and that the omission to enrol it in proper time arose from ignorance or inadvertence, or from the destruction thereof by time or accident, it shall be lawful for the said Clerk of Inrolments to enrol the Instrument to which the application relates, or such a subsequent deed as in the said Act mentioned, (*i.e.*, where the original deed has been lost or destroyed by time or accident, and the trusts thereof sufficiently appear by some subsequent deed); and such enrolment shall be as valid as if made under the last-mentioned Act. In addition to the ordinary fee upon enrolment, there shall be paid upon any enrolment under this section, the further fee of ten shillings.

SCHEDULE.

The objects and rules of the charity, and the date and parties to every instrument creating or regulating the same.

A short description of the property belonging to the charity at the date of application.

The names, residences, and additions of the trustees. The proposed title of the Corporation, of which title the words "Trustees," or "Governors," and "Registered," shall form part.

The proposed device of the common seal, which shall in all cases bear the name of the incorporation. The regulations for the custody and use of common seal.

THE NATURALIZATION ACT, 1872.

35 & 36 VICT. c. 39.

25th July, 1872.

2. Any renunciation of naturalization, or of nationality, made in manner provided by the Supplementary Convention signed at Washington, on the 23d of February 1871, and a copy of which is contained in the Schedule to this Act, shall be valid, and shall be deemed to be authorised by the Naturalization Act 1870. This section shall be deemed to take effect from the date at which the said supplementary Convention took effect.

3. Nothing contained in "The Naturalization Act, 1870," shall deprive any married woman of any estate or interest in real or personal property to which she may have become entitled previously to the passing of that Act, or affect such estate or interest to her prejudice.

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